Simon v. Adzilla, Inc [New Media] et al
Doc. 127 Att. 43

EXHIBIT WW

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G. HOPKINS GUY, III (STATE BAR NO. 124811)
I. NEEL CHATTERJEE (STATE BAR NO. 173985)
MONTE COOPER (STATE BAR NO. 196746)
JOSHUA H. WALKER (STATE BAR NO. 224940)
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Attorneys for Plaintiff
THEFACEBOOK, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

THEFACEBOOK, INC., Plaintiff, v. CONNECTU LLC, CAMERON WINKLEVOSS, TYLER WINKLEVOSS, HOWARD WINKLEVOSS, DIVYA NARENDRA, AND DOES 1-25, Defendants.	CASE NO. 1:05-CV-047381 **THE FACEBOOK, INC.'S FIRST SET OF REQUESTS FOR ADMISSION DIRECTED TO DEFENDANT DIVYA NARENDRA (C.C.P. § 2033)**

PROPOUNDING PARTY: DIVYA NARENDRA

RESPONDING PARTY: CONNECTU LLC,

SET NO: ONE

YOU ARE HEREBY REQUESTED, pursuant to Code of Civil Procedure section 2033, to answer the following requests for admission separately and fully, in writing, and under penalty of perjury, within thirty (30) days after service.

DEFINITIONS AND INSTRUCTIONS

1. "IDENTIFY," when used with respect to a natural person, means state the name,

current telephone number and current home or business address of the person(s). If current information is not available, please provide the last available information regarding the person(s).

2. "IDENTIFY," when used with respect to any other person, means state the name, place and date of incorporation or organization, principal place of business, and the identity of all natural persons having knowledge of the matter with respect to which it is named in an answer to an interrogatory.

3. "PERSON", "PERSONS" mean both natural persons and legal entities, including, without limitation corporations, companies, firms, partnerships, joint ventures, proprietorships, associations, and governmental bodies or agencies. Unless noted otherwise, references to any person, entity or party herein include its, his, or her agents, attorneys, employees, employers, officers, directors, or others acting on or purporting to act on behalf of said person, entity, or party.

4. "THEFACEBOOK" means, without limitation, TheFacebook, Inc. its past and present parents, subsidiaries, affiliates, predecessors and successors, divisions, officers, directors, trustees, employees, staff members, attorneys, representatives, consultants, agents and all persons acting or purporting to act on its behalf.

5. "YOU", "YOUR", and/or "CONNECTU," mean defendant DIVYA NARENDRA, ConnectU LLC, its directors, officers, parents, subsidiaries, predecessors, successors, assigns, agents, servants, employees, investigators, attorneys, and all other persons and entities representing it or acting on its behalf, or purporting to act on its behalf, including Tyler Winklevoss, Howard Winklevoss, Cameron Winklevoss, Pacific Northwest Software, and/or Winston Williams. It is acknowledged that the issue of whether HARVARD CONNECTION is a predecessor in interest to CONNECTU may be disputed. To the extent that an interrogatory requests information on "CONNECTU" "YOU", "YOUR", YOU must respond with specific information relating to ConnectU LLC first and all PERSONS listed above other than HARVARDCONNECTION. To the extent that YOU contend that any requested information Relates to HARVARDCONNECTION directly (e.g., a contention that a trade secret belonged to HARVARDCONNECTION) YOU must separately detail your response vis-à-vis

HARVARDCONNECTION.

6. "HARVARDCONNECTION" means a project to develop a website for Harvard University students and alumni, which made use of the term "HARVARDCONNECTION", and any individual, group, or association conducting or proposing work to develop such website.

7. If you object to any of the requests for admission herein on privilege grounds, state the privilege claimed and describe the facts giving rise to the privilege claim in sufficient detail so that the Court can adjudicate the validity of the claim.

8. Each answer should be preceded by a reiteration of the full request for admission to which it responds.

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION No. 1:

Admit that YOU have an individual member ID account that is used to accessed THEFACEBOOK's website.

REQUEST FOR ADMISSION No. 2:

Admit that YOU have accessed THEFACEBOOK website for the purpose of acquiring email addresses previously registered with THEFACEBOOK.

REQUEST FOR ADMISSION No. 3:

Admit that YOU have accessed THEFACEBOOK website for the purpose of identifying all colleges and universities that are included in the online directory maintained by THEFACEBOOK.

REQUEST FOR ADMISSION No. 4:

Admit that YOU have accessed THEFACEBOOK website for the purpose of identifying visible website features offered by THEFACEBOOK.

REQUEST FOR ADMISSION No. 5:

Admit that YOU have accessed THEFACEBOOK website for the purpose of identifying what functions are permitted by THEFACEBOOK website software.

REQUEST FOR ADMISSION No. 6:

Admit that you have accessed THEFACEBOOK website by deliberately

circumventing what YOU knew were security features intended to limit access to THEFACEBOOK website.

REQUEST FOR ADMISSION No. 7:

Admit that YOU accessed THEFACEBOOK's website using more than one FACEBOOK individual member ID account.

REQUEST FOR ADMISSION No. 8:

Admit that you used the e-mail addresses of THEFACEBOOK members obtained by accessing THEFACEBOOK website in order to solicit memberships to CONNECTU.

REQUEST FOR ADMISSION No. 9:

Admit that YOU distributed e-mails to members of THEFACEBOOK for the purpose of soliciting them for the CONNECTU site.

REQUEST FOR ADMISSION No. 10:

Admit that YOU downloaded data from THEFACEBOOK's website that you incorporated into CONNECTU's own website.

REQUEST FOR ADMISSION No. 11:

Admit that CONNECTU's website traffic increased as a result of the solicitations YOU made to the email accounts YOU obtained from THEFACEBOOK's website.

REQUEST FOR ADMISSION No. 12:

Admit that YOU employed or retained Pacific Northwest Software for the purpose of retrieving and/or gathering information from THEFACEBOOK's website.

REQUEST FOR ADMISSION No. 13:

Admit that YOU employed or retained Winston Williams for the purpose of retrieving and/or gathering information from THEFACEBOOK's website.

REQUEST FOR ADMISSION No. 14:

Admit that revenue generated by CONNECTU increased after YOU used the email addressed YOU obtained from THEFACEBOOK's website to solicit membership to CONNECTU.

REQUEST FOR ADMISSION No. 15:

Admit that YOU accessed THEFACEBOOK's website, in order to identify features that might improve CONNECTU's business.

REQUEST FOR ADMISSION No. 16:

Admit that at all times prior to June 27, 2005 when YOU accessed THEFACEBOOK's website, it included a section called "Terms of Use."

REQUEST FOR ADMISSION No. 17:

Admit that at all times prior to June 27, 2005 when YOU accessed THEFACEBOOK's website, the "Terms of Use" for THEFACEBOOK website stated "By using the Facebook web site (the 'Web site') you signify that you have read, understand and agree to be bound by these Terms of Use (this 'Agreement')."

REQUEST FOR ADMISSION No. 18:

Admit that at all times prior to June 27, 2005 when YOU accessed THEFACEBOOK's website YOU agreed to be bound by THEFACEBOOK's "Terms of Use."

REQUEST FOR ADMISSION No. 19:

Admit that at all times prior to June 27, 2005 when YOU accessed THEFACEBOOK's website, the "Terms of Use" for THEFACEBOOK website stated as follows:

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REQUEST FOR ADMISSION No. 20:

Admit that at all times prior to June 27, 2005 when YOU accessed THEFACEBOOK's website, the "Terms of Use" for THEFACEBOOK website stated as follows:

> You may not engage in advertising to, or solicitation of, other Members to buy or sell any products or services through the Service. You may not transmit any chain letters or junk email to other members. Although Thefacebook cannot monitor the conduct of its members off the Web site, it is also a violation of these rules

> to use any information obtained from the Service in order to harass, abuse, or harm another person, or in order to advertise to, solicit, or sell to any member without their prior consent.

REQUEST FOR ADMISSION No. 21:

Admit that at all times prior to June 27, 2005 when YOU accessed THEFACEBOOK's website, the "Terms of Use" for THEFACEBOOK website stated as follows:

> Thefacebook owns and retains all proprietary rights in the Web site and the Service. The Web site contains the copyrighted material, trademarks, and other proprietary information of Thefacebook, and its licensors. Except for that information which is in the public domain or for which you have been given written permission, you may not copy, modify, publish, transmit, distribute, perform, display, or sell any such proprietary information.

REQUEST FOR ADMISSION No. 22:

Admit that YOU use a data-import program called "Social Butterfly."

REQUEST FOR ADMISSION No. 23:

Admit that the Social Butterfly software shortens the registration process for users who want to switch to CONNECTU from other social networking sites by allowing new users to import profile information and friends lists from THEFACEBOOK.

REQUEST FOR ADMISSION No. 24:

Admit that YOU used the email accounts YOU obtained from THEFACEBOOK website in conjunction with Social Butterfly.

REQUEST FOR ADMISSION No. 25:

Admit that when YOU used email accounts that YOU obtained from THEFACEBOOK website to support Social Butterfly, YOU breached THEFACEBOOK's Terms of Use.

DATED: September 26, 2005

Monte Cooper
Attorneys for Plaintiff
THEFACEBOOK, INC.

DOCSSV1:427541.1

G. HOPKINS GUY, III (STATE BAR NO. 124811)
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RESPONDING PARTY: CONNECTU LLC,

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5. "CONNECTU" "YOU", "YOUR", mean defendant ConnectU LLC, its directors, officers, parents, subsidiaries, predecessors, successors, assigns, agents, servants, employees, investigators, attorneys, and all other persons and entities representing it or acting on its behalf, or purporting to act on its behalf, including Cameron Winklevoss, Tyler Winklevoss, Howard Winklevoss, Divya Narendra, Pacific Northwest Software, and/or Winston Williams. It is acknowledged that the issue of whether HARVARD CONNECTION is a predecessor in interest to CONNECTU may be disputed. To the extent that an interrogatory requests information on "CONNECTU" "YOU", "YOUR", YOU must respond with specific information relating to ConnectU LLC first and all PERSONS listed above other than HARVARDCONNECTION. To the extent that YOU contend that any requested information Relates to HARVARDCONNECTION directly (e.g., a contention that a trade secret belonged to HARVARDCONNECTION) YOU must separately detail your response vis-à-vis

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REQUEST FOR ADMISSION No. 25:

Admit that when YOU used email accounts that YOU obtained from THEFACEBOOK website to support Social Butterfly, YOU breached THEFACEBOOK's Terms of Use.

DATED: September 26, 2005

Monte Cooper
Attorneys for Plaintiff
THEFACEBOOK, INC.

DOCSSV1:427536.1

G. HOPKINS GUY, III (STATE BAR NO. 124811)
I. NEEL CHATTERJEE (STATE BAR NO. 173985)
MONTE COOPER (STATE BAR NO. 196746)
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Attorneys for Plaintiff
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

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THEFACEBOOK, INC., Plaintiff, v. CONNECTU LLC, CAMERON WINKLEVOSS, TYLER WINKLEVOSS, HOWARD WINKLEVOSS, DIVYA NARENDRA, AND DOES 1-25, Defendants.	CASE NO. 1:05-CV-047381 **THE FACEBOOK, INC.'S FIRST SET OF REQUESTS FOR ADMISSION DIRECTED TO DEFENDANT CAMERON WINKLEVOSS (C.C.P. § 2033)**

PROPOUNDING PARTY: CAMERON WINKLEVOSS

RESPONDING PARTY: CONNECTU LLC,

SET NO: ONE

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5. "YOU", "YOUR", and/or "CONNECTU," mean defendant CAMERON WINKLEVOSS, ConnectU LLC, its directors, officers, parents, subsidiaries, predecessors, successors, assigns, agents, servants, employees, investigators, attorneys, and all other persons and entities representing it or acting on its behalf, or purporting to act on its behalf, including Tyler Winklevoss, Howard Winklevoss, Divya Narendra, Pacific Northwest Software, and/or Winston Williams. It is acknowledged that the issue of whether HARVARD CONNECTION is a predecessor in interest to CONNECTU may be disputed. To the extent that an interrogatory requests information on "CONNECTU" "YOU", "YOUR", YOU must respond with specific information relating to ConnectU LLC first and all PERSONS listed above other than HARVARDCONNECTION. To the extent that YOU contend that any requested information Relates to HARVARDCONNECTION directly (e.g., a contention that a trade secret belonged to HARVARDCONNECTION) YOU must separately detail your response vis-à-vis

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DATED: September 26, 2005

[signature]

Monte Cooper
Attorneys for Plaintiff
THEFACEBOOK, INC.

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current telephone number and current home or business address of the person(s). If current information is not available, please provide the last available information regarding the person(s).

2. "IDENTIFY," when used with respect to any other person, means state the name, place and date of incorporation or organization, principal place of business, and the identity of all natural persons having knowledge of the matter with respect to which it is named in an answer to an interrogatory.

3. "PERSON", "PERSONS" mean both natural persons and legal entities, including, without limitation corporations, companies, firms, partnerships, joint ventures, proprietorships, associations, and governmental bodies or agencies. Unless noted otherwise, references to any person, entity or party herein include its, his, or her agents, attorneys, employees, employers, officers, directors, or others acting on or purporting to act on behalf of said person, entity, or party.

4. "THEFACEBOOK" means, without limitation, TheFacebook, Inc. its past and present parents, subsidiaries, affiliates, predecessors and successors, divisions, officers, directors, trustees, employees, staff members, attorneys, representatives, consultants, agents and all persons acting or purporting to act on its behalf.

5. "YOU", "YOUR", and/or "CONNECTU," mean defendant TYLER WINKLEVOSS, ConnectU LLC, its directors, officers, parents, subsidiaries, predecessors, successors, assigns, agents, servants, employees, investigators, attorneys, and all other persons and entities representing it or acting on its behalf, or purporting to act on its behalf, including Cameron Winklevoss, Howard Winklevoss, Divya Narendra, Pacific Northwest Software, and/or Winston Williams. It is acknowledged that the issue of whether HARVARD CONNECTION is a predecessor in interest to CONNECTU may be disputed. To the extent that an interrogatory requests information on "CONNECTU" "YOU", "YOUR", YOU must respond with specific information relating to ConnectU LLC first and all PERSONS listed above other than HARVARDCONNECTION. To the extent that YOU contend that any requested information Relates to HARVARDCONNECTION directly (e.g., a contention that a trade secret belonged to HARVARDCONNECTION) YOU must separately detail your response vis-à-vis

HARVARDCONNECTION.

6. "HARVARDCONNECTION" means a project to develop a website for Harvard University students and alumni, which made use of the term "HARVARDCONNECTION", and any individual, group, or association conducting or proposing work to develop such website.

7. If you object to any of the requests for admission herein on privilege grounds, state the privilege claimed and describe the facts giving rise to the privilege claim in sufficient detail so that the Court can adjudicate the validity of the claim.

8. Each answer should be preceded by a reiteration of the full request for admission to which it responds.

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION No. 1:

Admit that YOU have an individual member ID account that is used to accessed THEFACEBOOK's website.

REQUEST FOR ADMISSION No. 2:

Admit that YOU have accessed THEFACEBOOK website for the purpose of acquiring email addresses previously registered with THEFACEBOOK.

REQUEST FOR ADMISSION No. 3:

Admit that YOU have accessed THEFACEBOOK website for the purpose of identifying all colleges and universities that are included in the online directory maintained by THEFACEBOOK.

REQUEST FOR ADMISSION No. 4:

Admit that YOU have accessed THEFACEBOOK website for the purpose of identifying visible website features offered by THEFACEBOOK.

REQUEST FOR ADMISSION No. 5:

Admit that YOU have accessed THEFACEBOOK website for the purpose of identifying what functions are permitted by THEFACEBOOK website software.

REQUEST FOR ADMISSION No. 6:

Admit that you have accessed THEFACEBOOK website by deliberately

circumventing what YOU knew were security features intended to limit access to THEFACEBOOK website.

REQUEST FOR ADMISSION No. 7:

Admit that YOU accessed THEFACEBOOK's website using more than one FACEBOOK individual member ID account.

REQUEST FOR ADMISSION No. 8:

Admit that you used the e-mail addresses of THEFACEBOOK members obtained by accessing THEFACEBOOK website in order to solicit memberships to CONNECTU.

REQUEST FOR ADMISSION No. 9:

Admit that YOU distributed e-mails to members of THEFACEBOOK for the purpose of soliciting them for the CONNECTU site.

REQUEST FOR ADMISSION No. 10:

Admit that YOU downloaded data from THEFACEBOOK's website that you incorporated into CONNECTU's own website.

REQUEST FOR ADMISSION No. 11:

Admit that CONNECTU's website traffic increased as a result of the solicitations YOU made to the email accounts YOU obtained from THEFACEBOOK's website.

REQUEST FOR ADMISSION No. 12:

Admit that YOU employed or retained Pacific Northwest Software for the purpose of retrieving and/or gathering information from THEFACEBOOK's website.

REQUEST FOR ADMISSION No. 13:

Admit that YOU employed or retained Winston Williams for the purpose of retrieving and/or gathering information from THEFACEBOOK's website.

REQUEST FOR ADMISSION No. 14:

Admit that revenue generated by CONNECTU increased after YOU used the email addressed YOU obtained from THEFACEBOOK's website to solicit membership to CONNECTU.

REQUEST FOR ADMISSION No. 15:

Admit that YOU accessed THEFACEBOOK's website, in order to identify features that might improve CONNECTU's business.

REQUEST FOR ADMISSION No. 16:

Admit that at all times prior to June 27, 2005 when YOU accessed THEFACEBOOK's website, it included a section called "Terms of Use."

REQUEST FOR ADMISSION No. 17:

Admit that at all times prior to June 27, 2005 when YOU accessed THEFACEBOOK's website, the "Terms of Use" for THEFACEBOOK website stated "By using the Facebook web site (the 'Web site') you signify that you have read, understand and agree to be bound by these Terms of Use (this 'Agreement')."

REQUEST FOR ADMISSION No. 18:

Admit that at all times prior to June 27, 2005 when YOU accessed THEFACEBOOK's website YOU agreed to be bound by THEFACEBOOK's "Terms of Use."

REQUEST FOR ADMISSION No. 19:

Admit that at all times prior to June 27, 2005 when YOU accessed THEFACEBOOK's website, the "Terms of Use" for THEFACEBOOK website stated as follows:

> The Web site is for the personal use of individual Members only and may not be used in connection with any commercial endeavors. Organizations, companies, and/or businesses may not become Members and should not use the Service or the Web site for any purpose. Illegal and/or unauthorized uses of the Web site, including collecting email addresses or other contact information of members by electronic or other means for the purpose of sending unsolicited email and unauthorized framing of or linking to the Web site will be investigated, and appropriate legal action will be taken, including without limitation, civil, criminal, and injunctive redress.

REQUEST FOR ADMISSION No. 20:

Admit that at all times prior to June 27, 2005 when YOU accessed THEFACEBOOK's website, the "Terms of Use" for THEFACEBOOK website stated as follows:

> You may not engage in advertising to, or solicitation of, other Members to buy or sell any products or services through the Service. You may not transmit any chain letters or junk email to other members. Although Thefacebook cannot monitor the conduct of its members off the Web site, it is also a violation of these rules

> to use any information obtained from the Service in order to harass, abuse, or harm another person, or in order to advertise to, solicit, or sell to any member without their prior consent.

REQUEST FOR ADMISSION No. 21:

Admit that at all times prior to June 27, 2005 when YOU accessed THEFACEBOOK's website, the "Terms of Use" for THEFACEBOOK website stated as follows:

> Thefacebook owns and retains all proprietary rights in the Web site and the Service. The Web site contains the copyrighted material, trademarks, and other proprietary information of Thefacebook, and its licensors. Except for that information which is in the public domain or for which you have been given written permission, you may not copy, modify, publish, transmit, distribute, perform, display, or sell any such proprietary information.

REQUEST FOR ADMISSION No. 22:

Admit that YOU use a data-import program called "Social Butterfly."

REQUEST FOR ADMISSION No. 23:

Admit that the Social Butterfly software shortens the registration process for users who want to switch to CONNECTU from other social networking sites by allowing new users to import profile information and friends lists from THEFACEBOOK.

REQUEST FOR ADMISSION No. 24:

Admit that YOU used the email accounts YOU obtained from THEFACEBOOK website in conjunction with Social Butterfly.

REQUEST FOR ADMISSION No. 25:

Admit that when YOU used email accounts that YOU obtained from THEFACEBOOK website to support Social Butterfly, YOU breached THEFACEBOOK's Terms of Use.

DATED: September 26, 2005

Monte Cooper
Attorneys for Plaintiff
THEFACEBOOK, INC.

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